IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 16462 of 2005(I)

AGAINST THE ORDER IN EP 235/1999 IN
OS.329/1986 of PRL.SUB COURT, KOZHIKODE

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PETITIONER:

P. JAYAKRISHNAN,
PULPARAMBIL HOUSE, KOTTOOLI AMSOM AND
PARAYANCHERI DESOM OF KOZHIKODE TALUK.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENT:

THE CATHOLIC SYRIAN BANK LIMITED,
CALICUT CITY BRANCH.

BY ADV. SRI.M.PATHROSE MATTHAI (SR.)
SRI.RONY J.PALLATH
SRI.RADHIKA RAJASEKHARAN P.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.16462/05

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF EP.235/99 DT.20.3.99 IN O.S.329/86 OF SUB COURT, KOZHIKODE.

EXT.P2 – TRUE COPY OF COUNTER AFFIDAVIT DT.10.2.2000 IN EP235/99 FILED BY PETR.

EXT.P3 – TRUE COPY OF OBJECTION DT.22.10.02.

EXT.P4 – TRUE COPY OF EA.1194/03 FILED BY RESPONDENT.

EXT.P5 – TRUE COPY OF COUNTER AFFIDAVIT DT.3.12.03 IN E.A.1194/03.

EXT.P6 – TRUE COP OF ORDER DT.16.11.04 IN EP.235/99.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.16462 OF 2005

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DATED THIS THE 3RD AUGUST, 2007

J U D G M E N T

The strenuous submissions of Mr.A.V.M.Salahuddeen, counsel for the petitioner notwithstanding, I do not find any infirmity about Ext.P6 order of the execution court warranting interference by this Court under the visitorial jurisdiction. However, by way of indulgence, I am inclined to grant instalment facility to the petitioner.

Accordingly the Writ Petition will stand disposed of issuing the following directions:-

Actual sale of the properties will not be conducted by the execution court on condition that the petitioner pays every month commencing from the 1st of September, 2007 at the rate of Rs.10,000/- without fail. In the event of any default, the petitioner will forfeit the above benefit. Once the petitioner becomes confident of having discharged 90% of the E.P. claim, the petitioner will file a representation before the respondent-bank seeking some concession by way of interest remission or otherwise and the bank will take a decision on that representation bestowing all possible sympathies.

(PIUS C.KURIAKOSE, JUDGE)

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